IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	CASE NO. 8:08CR105
	)	
Plaintiff,	)	
	)	
vs.	)	**TENTATIVE FINDINGS**
	)	
FRED M. HUFFMAN,	)	
	)	
Defendant.	)	

The Court has received the Second Revised Presentence Investigation Report ("PSR") and the Defendant's objections thereto (Filing No. 368) and the Defendant's supporting brief (Filing No. 369). The government adopted the PSR (Filing No. 365). *See* Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker,* 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the lack of a downward adjustment for a mitigating role in ¶ 29 of the PSR. The objection will be heard at sentencing, and the Defendant has the burden by a preponderance of the evidence.

IT IS ORDERED:

1.   The Defendant's Objections to the Presentence Investigation Report (Filing No. 368) will be heard at sentencing;

2.   Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

3.   If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion

challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4.   Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5.   Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 9th day of February, 2009.

BY THE COURT:

S/ Laurie Smith Camp
United States District Judge